

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Martin Robinson,

Plaintiff,

v.

Lonnie Butler, *et al.*,

Defendants.

CASE NO. 2:21-CV-774

JUDGE SARAH D. MORRISON

Magistrate Judge Kimberly A. Jolson

ORDER

On March 19, 2021, Magistrate Judge Jolson issued a Report and Recommendation and Order (ECF No. 9) recommending that Defendant Ohio Department of Rehabilitation and Correction (“ODRC”) be dismissed, and that Plaintiff Martin Robinson be permitted to proceed with his claims against the remaining Defendants. Plaintiff objected to the dismissal recommendation on April 1, 2021. (ECF No. 10.)

Magistrate Judge Jolson’s Report and Recommendation and Order properly recommends that Plaintiff’s claims against ODRC be dismissed because “ODRC is absolutely immune from suit in this Court by virtue of the Eleventh Amendment to the United States Constitution.” (ECF No. 9, PageID 34) (citing *Regents of Univ. of Calif. v. Doe*, 519 U.S. 425, 429, 117 S. Ct. 900, 137 L.Ed.2d 55 (1997), *Tackett v. Ohio Dep’t of Rehab. & Corr.*, No. 2:10-cv-979, 2011 WL 5076401 at *3 (S.D. Ohio Oct. 25, 2011) (Frost, J.), and *Will v. Mich. Dep’t of State Police*, 491 U.S. 58, 70–71 (1989)). Plaintiff’s Objection argues only that R.C. §§ 2743.01 and 2743.02 permit

this matter to proceed against ODRC. Yet, those statutes are inapplicable, as they address matters before the Court of Claims of Ohio. Thus, Plaintiff's Objection (ECF No. 10) is **OVERRULED**. The Report and Recommendation and Order (Doc. 9) is **ADOPTED** and **AFFIRMED**. Plaintiff's claims against Defendant Ohio Department of Rehabilitation and Correction are **DISMISSED**, but Plaintiff may proceed with his claims against the remaining Defendants.

IT IS SO ORDERED.

s/Sarah D. Morrison
SARAH D. MORRISON
UNITED STATES DISTRICT JUDGE